

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Andrew C. Higgins

v.

Civil No. 04-cv-211-PB

Warden, New Hampshire State Prison

O R D E R

Andrew C. Higgins has filed a status report and supporting documents (document nos. 12 and 13) relevant to his petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. I construe his filings as a request to lift the stay of federal proceedings and review his petition which has been held in abeyance pending resolution of his state court proceedings.

By order of January 25, 2005, the New Hampshire Supreme Court instructed Higgins to first file a petition for a writ of habeas corpus in the New Hampshire Superior Court. He was further instructed that if the superior court denies his request for relief, he may file an appeal with the New Hampshire Supreme Court.

Higgins has now provided a copy of a superior court order dated June 16, 2005 denying his habeas corpus petition as

untimely. Before proceeding in this Court, he must file an appeal of the superior court order with the New Hampshire Supreme Court. He is further instructed to provide this Court with any subsequent New Hampshire Supreme Court orders or decisions.

The federal proceedings will remain stayed and the petition held in abeyance pending Higgins' complete exhaustion of state remedies. Once he has exhausted state remedies, he may request this Court to lift the stay and review the federal petition.

SO ORDERED.

James R. Muirhead
United States Magistrate Judge

Date: July 25, 2005

cc: Andrew C. Higgins, *pro se*